

Bankruptcy Law & Research

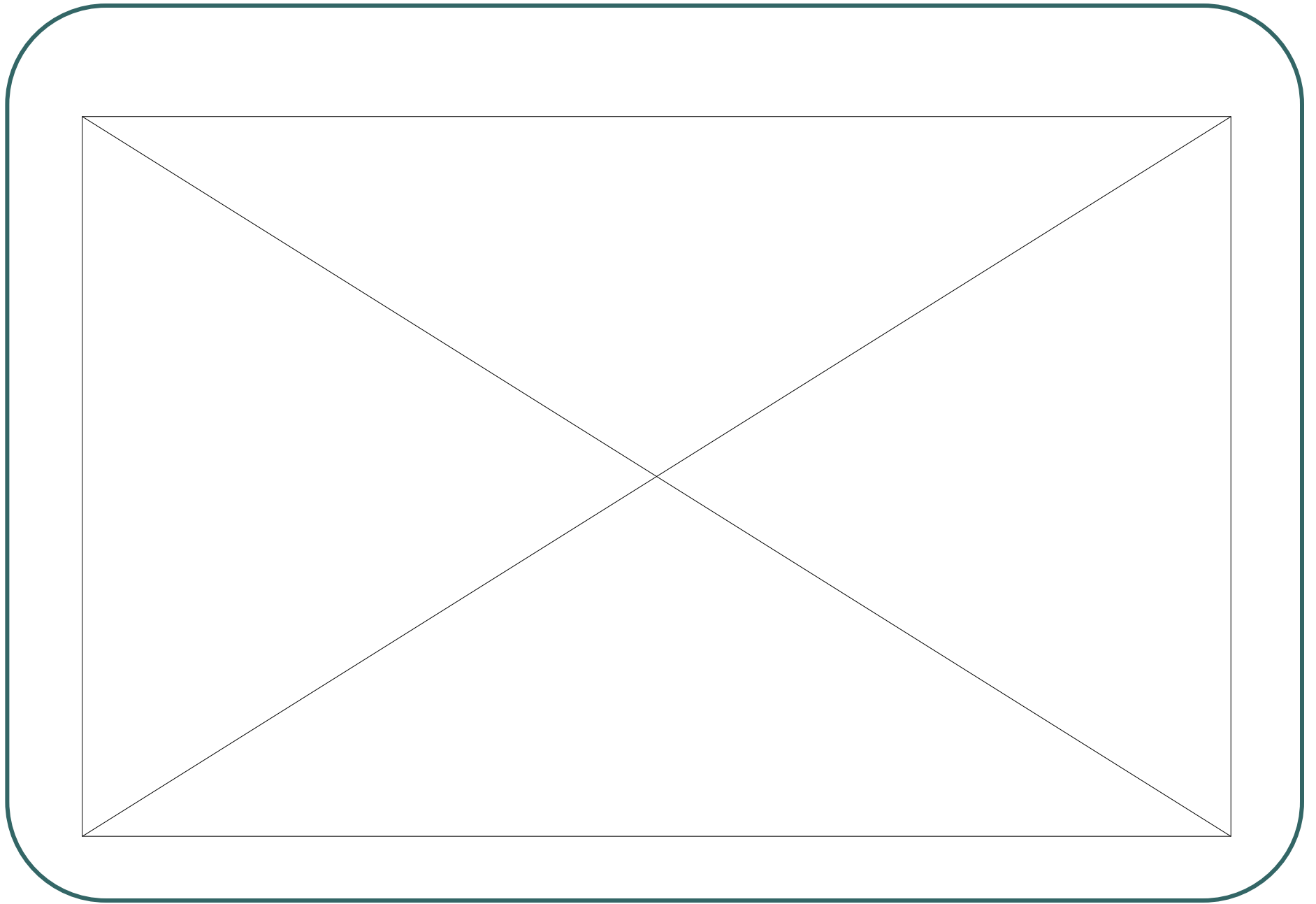
**A presentation to the Northern California
Association of Law Libraries**

Joshua Fried, Partner

and

**Leslie Ann Forrester, Director of Legal
Research**

Pachulski Stang Ziehl & Jones LLP



What's Different About Bankruptcy Research?

- Bankruptcy courts are courts of equity
- Bankruptcy law is federal, BUT state law is applied: torts, contracts, real property, UCC, business organization law, and also other federal laws, such as securities, labor laws, and tax
- Court system, jurisdiction

Overview

- History of bankruptcy legislation & court system
- Basic bankruptcy concepts and terms
- Bankruptcy chapters
- Dockets – PACER
- Documents in a bankruptcy case
- Did it file? Where?

What Aren't We Going to Cover?

- Basic research using Bankruptcy Code sections
- How to file or administer a bankruptcy case
- The differences between Westlaw & LexisNexis bankruptcy offerings
- Books 😞
- How to find a good bankruptcy lawyer

Sources of Bankruptcy Law

- US Constitution: Article I empowers Congress to “establish uniform laws on the subject of Bankruptcies throughout the United States.”
- Federal law – USC title 11 (& parts of 28)
- State law
- Rules – federal and local court
- Case law
- Regulations
- US Trustee guidelines

Bankruptcy Legislation and the Bankruptcy Court System

- History – Bankruptcy referees
- 1978 – Bankruptcy judges – Art. I
- *Marathon*, 1984 amendments
- Bankruptcy courts now adjuncts of district courts
- Appeals – core, noncore

Appeals

- Core proceedings
 - 1st, 6th, 8th, 9th, 10th Circuits – to the BAP unless a party objects
 - Other Circuits – to district court
 - Appeals from BAP or district court go to circuit
- Noncore proceedings: Proposed findings of fact & conclusions of law submitted to district court for *de novo* review

Concepts

- Automatic stay, breathing room, and “fresh start” for debtor
- Property of the estate
- Claims
- Avoiding powers
- Executory contracts
- Priorities
- Discharge

Chapters

- Chapters 1,3, & 5 – applicable to all cases
 - General provisions, administration, creditors & the estate
- Chapter 7 - liquidation
- Chapter 9 - municipalities
- Chapter 11 - reorganization
- Chapter 12 - family farmers
- Chapter 13 - consumer wage earners
- Chapter 15 - cross-border insolvency

Chapter 11

- Keep business going with debtor in possession (bad management? Ch. 11 trustee)
- Avoiding liquidation (ch. 7) allows company to continue to provide goods or services, retain employees, and offers potential for higher return to creditors
- Creditors vote on reorganization plan - essentially a contract outlining a payment plan and restructuring debt
- Creditors may be offered stake in reorganized company as debt repayment

Reporters

- *West's Bankruptcy Reporter*
 - Bankruptcy court opinions
 - BAP opinions (1st, 6th, 8th, 9th, 10th)
 - Bankruptcy-related opinions from district courts (not in F. Supp.)
 - Federal courts of appeal (end of volume with original pagination), and Supreme Court (same)
- Others: *Collier*, *BCD*

Dockets

- PACER – covers all bankruptcy courts, all courts require e-filing
- Westlaw & Courtlink
- Claims agents sites
- Appeals – BAP or district court
- More appeals during case than in civil litigation

Documents in a Bankruptcy Case

- Petition (often includes 20 largest list)
- Employment of bankruptcy professionals (fee schedules!)
- “First-day” motions
- Statement of Financial Affairs (“SOFA”), schedules of assets and liabilities
- Creditor matrix, requests for special notice
- Disclosure statements and reorganization plans
- Claims register (not part of docket)

Adversary proceedings

- Litigation commenced and separately docketed (“X v. Y”) within bankruptcy case (“In re Z”)
- Commencement noted in bankruptcy docket, usually with new avp docket number & hyperlink to complaint

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In re:

HUNJAN MOULDED PRODUCTS (ALABAMA) LTD., a Delaware corporation doing business in Alabama as HUNJAN MOULDED PRODUCTS (ALABAMA) LTD. INC.,)	Chapter 11
Debtor.)	Case Number: 05-04637-TBB
<hr/>		
AMSOUTH BANK,)	
Plaintiff,)	
v.)	
GENERAL ELECTRIC CAPITAL CORPORATION, et al.,)	Adversary No. 05-203
Defendants.)	

**GENERAL ELECTRIC CAPITAL CORPORATION'S
ANSWER TO COMPLAINT**

Defendant, General Electric Capital Corporation ("GECC") files the following Answer to the Complaint filed by AmSouth Bank ("Plaintiff"), and for its specific responses to the allegations made, states as follows:

1. GECC admits all of the allegations contained in paragraphs one through four (1-4) of the Complaint.
2. As to paragraph five (5), GECC is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in the first three

New Filings

- Did it file? What filed? Where?
- Case index on PACER
- Court by court – case query (date & chapter)
- WEXIS
- Subscription services

Summary

- Sources of bankruptcy law
- History of bankruptcy legislation & court system
- Bankruptcy chapters
- Reporters
- Dockets & documents
- Finding a new case

jfried@pszlaw.com

lforrester@pszlaw.com



Pachulski Stang Ziehl & Jones LLP
150 California Street, 15th Floor
San Francisco CA 94111
415.263.7000